

Register Number.....

M.B.A. DEGREE EXAMINATIONS: DECEMBER – 2008

Fifth Trimester

P07BA501: INTELLECTUAL PROPERTY RIGHTS

Time: Three Hours

Maximum Marks: 100

Answer ALL Questions:-

PART A (1 x 20 = 20 Marks)

1. Case Study

TVS Motors Ltd. Vs. Bajaj Auto Ltd.

I remember a comic scene from the Hindi Comedy movie "Hungama", in which the two male protagonists get into a verbal scuffle over.. well, a girl of course. In that particular scene the two characters try to size up each other. So instead of the usual Bollywood fare of blood and gore the scene ultimately culminates into nothing but a war of words without even a single blow being landed.

So far both the auto makers have made public that they would take each other to court. Bajaj Auto says that they will file against TVS if they go ahead with the CCV-Ti engine. On the other hand TVS retorts by stating that they'll sue Bajaj Auto for their "malicious remarks" against TVS Motors. It remains to be seen whether this episode actually results in either of the parties dragging the other to court.

The feud between Bajaj Auto and TVS Motor is getting more heated with claims and counterclaims made by both the companies. But what exactly is at the heart of the whole controversy? Two spark plugs.

At a glance, the two companies' new engines and the technologies adopted – in the Bajaj Exceed's DTS-Si engine and the TVS Flame's CC-VTi engine – will seem to share more than the one controversial feature over which the two-wheeler manufacturers are trading punches.

They are both 125cc class engines, both employ a kind of swirl induction or intake to improve the quality of the air-fuel mixture in the combustion chamber and both employ twin spark plugs, instead of the single spark plug that is typically employed in single cylinder engines.

What Bajaj is contending to be a violation of its intellectual property is the use of twin spark plugs in the same format, with a similar configuration, and in a similar sized engine by TVS Motor in the latter's forthcoming new bike – the Flame.

Bajaj patented its twin spark plugs technology called Digital Twin Spark Ignition (DTS-i) after the company's in-house R&D successfully integrated the feature first into the Pulsar's 150cc engine. The technology was later used in the bigger engines of the Pulsar and in Bajaj's smaller engined Discovery.

Twin spark ignition has been used by innumerable automobile companies (both car and two-wheeler manufacturers) to gain from the improvement in performance, increased fuel efficiency and reduced emissions that the technology offers compared to conventional single spark ignition.

Twin spark ignition has been used in technologically advanced engines by carmakers like Mercedes Benz in cars like the M-Class SUV and even in the super luxury Maybach's engines. BMW has used twin spark ignition in its high-end (650cc+) bikes for improving their emissions compliance and Alfa Romeo has used twin spark ignition for tweaking the performance of its cars. Even the i-DSI engine in the Honda City that is sold in India incorporates twin spark plugs per cylinder.

In the conventional single spark plug-per-cylinder set up, the air-fuel mixture in the engine's combustion chamber is not optimally burnt. Imagine a vertical cylindrical box area as the combustion chamber with one spark plug firing on one side. There are corners and areas on the other side where the flame front created by the single spark plug will not be able to reach. As a result, power delivered is lower than optimum, unburnt fuel is wasted, and there will be higher toxic emissions.

With two spark plugs that are digitally mapped for optimum performance under varied operating conditions, twin spark ignition with two flame fronts, such as the DTS-i technology of Bajaj, enables more complete combustion. This boosts power and reduces wastage, thereby improving fuel efficiency and lowering emissions.

Bajaj says it holds the patent in the Indian market for the use of twin spark technology in small automotive engines. TVS claims that an application for revocation has been filed against this patent.

According to Mr Amit Nandi, General Manager-Marketing, Bajaj Auto, the Chennai-headquartered TVS Motor has used the technology patented by Bajaj Auto globally. The company's legal team is evaluating the matter and will soon initiate steps against its rival to protect its know-how.

Mr Nandi said the new bike's spark plugs were similar to those present in Bajaj's DTSi bikes (two spark plugs located at opposite ends of the combustion chamber).

The company contends that TVS Motor's 125 cc motor cycle also has spark plugs located at opposite ends of the compression chamber. Since location is the key to fuel efficiency and emission control, the design of TVS Motor's vehicle infringes on their proprietary know-how.

Further, the 125 cc motor cycle 'Flame' is in direct competition with Bajaj's Discover motorcycle and the upcoming new Exceed model.

Though globally the DTSi technology is present in high engine-capacity bikes, only Bajaj holds the global patent for this technology in the 125-220 cc segment. The company acquired the patent in 2002, Mr Nandi said. Bajaj introduced the technology to enhance the combustion process and ensure improved fuel efficiency and lower emissions.

The company is reportedly introducing its new 125 cc Exceed bike in the second week of September with an upgraded DTSi technology called DTS-Si developed by Bajaj Auto R&D. The company plans to sell 20,000 Exceed units in September and increase the number to 50,000 units by November this year, a company release stated.

TVS Motor Company proposes to file a suit against Bajaj Auto if the latter does not withdraw its allegations that TVS infringed on Bajaj's proprietary know-how.

We have l
divided our
withdrawn
ays a com

The alleg
ne inventi
ll over the

The patent
of the two
patent, an
of twin sp
revocation

Questions

1. In
2. Di
3. Di
4. If
5. Ju

2. W

3. D

4. W

5. V

6. V

7. V

8. L

9. D

10. V

11. I

12.

12.

"We have been advised to initiate action for libel against Bajaj Auto Ltd and we in turn have advised our lawyers to put Bajaj Auto Ltd on notice that unless the malicious allegations are withdrawn and regrets expressed, TVS would file a suit for damages in a sum of Rs 250 crore," says a company release.

"The allegation of Bajaj Auto is ridiculous and can be established by their own admission that the invention in issue - the application of twin spark plug is a known technology used extensively all over the world for decades and therefore, in patent law, it is a known prior art," it says.

The patent that Bajaj claims is not for the use of twin spark plug technology per se but for the use of the two spark plugs in a two valve IC engine with a detachably fixed sleeve. Against this patent, an application for revocation has already been filed by TVS Motor. In any event, the use of twin spark plug technology by TVS Motor does not infringe the above patent against which revocation proceedings have already been initiated by the company, the release adds.

Questions:-

1. In this case, whom do you think that they have the IP Rights of the product? How?
2. Discuss the case of TVS Motors Ltd.
3. Discuss the case of Bajaj Auto Ltd.
4. If you are a Judge, what would be your judgment in this case?
5. Justify your judgement.

PART B (10 x 2 = 20 Marks)

2. Write short notes on 'Claims'
3. Define Plagiarism Vs Copyright
4. What is design Act 2000?
5. What is a (i) Provisional (ii) Complete Specification?
6. What are the needs of Software copyright?
7. What is IPR Audit?
8. List some of the registered Geographical Indication in India.
9. Distinguish between Trade Names & Trademarks
10. What are the core activities of WIPO?
11. Distinguish between patentable and non patentable invention.

PART C (4 x 15 = 60 Marks)

12. a) List out the guidelines for registration of patent

(OR)

12. b) Explain Patent Grant procedure in India with some real-time example.

13. a) Write Short notes on
- i) Agreement on Trade related aspects of IPR. (5)
 - ii) WIPO (5)
 - iii) Design Act 2000. (5)

(OR)

13. b) . (i) Explain in detail about management of Trademarks in an enterprise. (8)
- (ii) Compare Trademark with Patent, Designs and Copyright (7)

14. a) Explain in detail about IPR strategies in developing countries.

(OR)

14. b) (i) With the help of a Flow Chart explain a Design Application upto Acceptance (8)
- (ii) Explain Filing and Grant of Geographical Indications in India. (7)

15. a) Write short notes on
- a. Sectoral IPR (5)
 - b. Transfer and licensing of trademark (5)
 - c. Types of IP services (5)

(OR)

15. b) (i) What are the guidelines used for Intellectual Property Management? (8)
- (ii) Discuss briefly about the important principles of IP Management? (7)
